

**REMARKS**

This is a response to the Final Office Action dated December 20, 2004. Claims 1-41 and 51-91 are pending in the application. In the Final Office Action, claims 1-41 were rejected pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Additionally, Claims 1-41 and 51-91 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. App. Pub. No. 2002/0059114 A1 ("Cockrill et al."). Finally, claims 1-41, and 51-91 were also rejected pursuant to 35 U.S.C. § 103(a) as being obvious to a person having ordinary skill in the art in view of Cockrill.

The rejections from the Final Office Action are discussed below in connection with the various claims. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

**I. REJECTIONS UNDER 35 U.S.C. § 112, 2<sup>nd</sup> paragraph**

Independent Claim 1 was rejected pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. In particular, the Examiner states that it is unclear if the "first suggested order" comprises only a "first two or more suggested products or services."

Applicants submit that the Examiner's interpretation of Claim 1 is incorrect. With this response, claim 1 has been amended for clarity and not for reasons relating to patentability. In particular, claim 1 has been amended to show that a request for a first suggested order is received and further that this first suggested order comprises a first two or more suggested products or services, a first suggested recurrence, and first suggested quantities as claimed.

Accordingly, Applicants submit that claim 1, as amended, is definite, and request that this rejection of this claim be withdrawn.

Additionally, dependent claims 2-41 were also rejected pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Claims 2-41 depend, directly or

indirectly, from claim 1. Applicants respectfully submit that dependent claims 2-41 should be allowed for at least the reasons set forth above for the independent claim.

## **II. REJECTIONS UNDER 35 U.S.C. § 102(e)**

5 Independent Claims 1 and 51 were rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Cockrill. With this response, claims 1 and 51 have been amended for clarity. Applicants respectfully submit that claims 1 and 51, as amended, are not anticipated by Cockrill as Cockrill fails to disclose all of the elements of these claims.

10 Independent claim 1 relates to a “method for facilitating electronic commerce through a network, the network comprising at least one server computer capable of communicating with a browser system located at a remote client computer....” The method comprises: “receiving, by said at least one server computer from said browser system a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, said first suggested order also  
15 comprising a first suggested recurrence for each of said first two or more suggested products or services and said first suggested order further comprising first suggested quantities for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services may be different than said first suggested recurrence associated with a second of said first  
20 two or more suggested products or services,” “generating a first profile, by said at least one server computer, said first profile comprising a computer readable representation of said first suggested order,” and “causing, by said at least one server computer, said first suggested order to automatically recur one or more times according to said first suggested recurrence based on said computer readable representation, by signaling a marketing system associated  
25 with said at least one server to fulfill each of said first two or more suggested products or services according to said associated of said first suggested recurrence.”

Independent claim 51 relates to an “order management system for facilitating electronic commerce over a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer over  
30 said network....” The order management system comprises: “an order receiver operative to

receive, from said browser system, a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for each of said first two or more suggested products or services and first suggested quantities for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services;" "a profile generator coupled with said order receiver and operative to generate a first profile, said first profile comprising said first suggested order;" and "an order generator responsive to said first profile and operative to cause said first suggested order to automatically recur one or more times according to said first suggested recurrence, each of said first two or more suggested products or services being fulfilled according to said associated of said first suggested recurrence."

Cockrill discloses a transaction network that facilitates and simplifies purchase transactions between any number of customers and any number of merchants. The network registers and authenticates customer purchase activities and maintains customer account data including payment information as well as provides a single, central authentication mechanism for all participating merchant sites using a single customer identifier and password. Further, the transaction network accumulates purchase information across all of the merchant sites and the ultimate payment processing of those purchase transactions. The network additionally preferably provides customers with centralized, automated services for customer account management, product refunds, subscription management, and multiple purchasing accounts linked to the same payment account. *See* Cockrill, Abstract.

While Cockrill does generally disclose subscription products and services, Cockrill fails to disclose a system that receives, "a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for each of said first two or more suggested products or services and first suggested quantities for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services may be different than said first

suggested recurrence associated with a second of said first two or more suggested products or services,” as claimed by Applicants.

Instead, Cockrill discloses a system that provides subscription management services for periodical subscriptions, such as the Wall Street Journal. Cockrill allows a user to track multiple subscriptions. In addition to the subscription name, each subscription also “includes an indication of the expiration date of the subscription, as well as an indication of whether the subscription will automatically renew when it expires.” Cockrill, para. 91. Cockrill does not disclose or suggest, however, that either a first suggested recurrence or quantity information is received from a browser system, as claimed. Cockrill does not suggesting passing this recurrence information to a server computer for any of its periodicals, much less receiving the recurrence information from a browser system located at a remote client computer that also transmits order and quantity information. Moreover, Cockrill does not disclose or suggest associating any quantity information with its subscriptions. For this reason alone, claims 1 and 51 are patentable over Cockrill.

Moreover, Cockrill teaches away from Applicants’ claimed invention in that periodical subscriptions typically feature a fixed recurrence tied to the publication schedule of the periodical. For example, a subscriber to the Wall Street Journal would typically not want to receive their newspaper bi-weekly rather than daily, as it is published. Even if the user had this option, ordering a newspaper bi-weekly or daily is not analogous to applicants claimed invention as the subscriber is essentially receiving a different ‘product’ each time the periodical is delivered, rather than a product replenishment. Each new publication essentially results in the creation of a new product as the publication will include different articles, features and other content with each publication. Cockrill does not suggest a system that may, for example, repeatedly deliver the February 1, 2005 edition of the Wall Street Journal at recurrences specified in a subscription order, nor would this be desirable by the recipient. In fact, the content of the periodic changes almost entirely. In contrast, Applicants claimed system causes the same or substantially equivalent products to be delivered according to a recurrence.

Finally, Cockrill also teaches away from Applicants’ invention as claimed because periodical subscribers typically don’t order multiple copies. A typical individual subscriber

would not want to receive three copies of the Wall Street Journal, etc. In light of this, Cockrill does not even disclose or suggest an order that a subscriber may order more than a single subscription, as no quantity information is maintained by the system of Cockrill. In contrast, Applicants claims require receiving, by said at least one server computer from said browser system, a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for each of said first two or more suggested products or services and first suggested quantities for each of said first two or more suggested products or services.

For at least these differences, claims 1 and 51 are patentable over Cockrill. Accordingly, Applicants request that this rejection of this claim be withdrawn.

Dependent Claims 2-41 and 52-91 were also rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Cockrill. Dependent claims 2-41 and 52-91 depend, directly or indirectly, from claims 1 and 51 and should be allowed for the reasons set out above for the independent claims. Applicants therefore request that the Examiner withdraw this rejection of these claims.

## **II. REJECTIONS UNDER 35 U.S.C. § 103(a)**

Independent Claims 1 and 51 were also rejected pursuant to 35 U.S.C. § 103(a) as being obvious to a person having ordinary skill in the art in view of Cockrill. Applicants further submit that independent Claims 1 and 51 are not obvious in view of Cockrill.

As discussed above, Cockrill does not disclose each feature claimed in independent Claims 1 and 51. Although the Examiner cites many potential modifications to Cockrill that the Examiner feels would be obvious to one of ordinary skill in the art, none of these suggestions cure the deficiency of Cockrill. Indeed, none of the proposed modifications would provide a system which receives, "a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for each of said first two or more suggested products or services and first suggested quantities for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with

a first of said first two or more suggested products or services may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services,” as claimed. As neither Cockrill nor the Examiner’s proposed modifications discloses Applicants’ system as claimed, the combination also fails to result in these  
5 limitations.

Moreover, Cockrill teaches away from Applicants’ claimed invention in that periodical subscriptions typically feature a fixed recurrence tied to the publication schedule of the periodical, each edition of the periodical is a different product, and periodical subscribers typically don’t order multiple copies, as discussed above. Again, none of the  
10 Examiner’s suggested modifications cures these additional shortcomings, and so the combination of Cockrill and the Examiner’s modifications again fail to include each feature of Applicants’ claims. For at least these reasons, claims 1 and 51 are not obvious in view of Cockrill. Accordingly, Applicants request that the Examiner withdraw this rejection of independent Claims 1 and 51.

15 Regarding the Examiner’s responses to Applicants’ prior arguments, it is unclear whether or not the Examiner is still maintaining the rejection under U.S. Pat. No. 5,983,200 (“Slotznick”). Accordingly, Applicants are responding to the Examiner’s present comments but assert that, per Applicants’ prior arguments, Slotznick neither anticipates nor renders obvious Applicants’ claims.

20 As an initial matter, the Examiner’s remarks are confusing in their treatment of an argument made in a prior response. In particular, the Examiner appears to indicate that Applicants’ prior argument suggests a requirement not found in the claims. This, however, is a mis-reading of Applicants’ argument. In the previous Office Action of November 8, 2004, various claims were rejected as anticipated by Slotznick, which disclosed an intelligent agent  
25 based system. However, as was argued in a prior response, this reference did not disclose each element of Applicants’ invention as claimed. Accordingly, Applicants stated that “Slotznick fails to disclose that the intelligent agent stores a single profile of multiple products to be ordered on a recurring basis wherein each of the products is capable of being reordered according to different recurring basis as claimed in Applicants’ claims.” See  
30 Applicants’ Response and Amendment dated July 19, 2004, p. 33. This passage clearly is

referring to the specific implementation of Slotznick as an intelligent agent, and simply notes that the system of Slotznick, i.e. the intelligent agent, lacks the claimed functionality of Applicants invention. At no time was this passage intended to imply Applicants' claims recite an intelligent agent based system, as this is clearly not a requirement of the claims.

5           Next, the Examiner argues that "virtually all electronic commerce systems store *a single profile of multiple products*." Office Action, para. 27 (emphasis added). Applicants respectfully disagree. In particular, the Examiner notes that "this profile *for each product* may include information that is *e.g.*, within the products UPC bar code... This is a profile for *that product*." Id. (emphasis added). The Examiner describes a system which includes a  
10   profile that describes a single product. Indeed, this is confirmed by the Examiner's list of exemplary information within a UPC bar code, such as, "date of manufacture; shelf life; place of manufacture; intended distribution route; batch number; government specs; size, weight, color, wattage, etc.; safety, health, ingredients, precautions, dosage, etc. information; pricing, discount, commission, tax and other accounting information; automatic reordering  
15   instructions; serial numbers, and so forth." Id. All of this information describes the attributes of a *single* product, not multiple products. In contrast, Applicants claim a system which includes a single profile of multiple products.

          The Examiner also argues that Cockrill discloses the use of subscription products and services in electronic commerce systems. Cockrill has not been presented before in a prior  
20   action by the Examiner, accordingly Applicants' prior responses contain no arguments directed to this reference. As discussed above, however, Cockrill fails to disclose a system that receives, "a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for each of said first two or more suggested products or services and  
25   first suggested quantities for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services," as claimed by Applicants.

Finally, the Examiner argues that virtually all subscription products and services are capable of being reordered according to different recurring basis. Although this statement is technically accurate, it fails to defeat the novelty of Applicants invention as claimed. Indeed, a subscription for a single product may dictate that, for example, a newspaper may be  
5 delivered on either a daily, weekly, or weekend only basis, and are thus capable of reordering. Thus, a single product may be ordered at one of multiple intervals. Applicants claims, however, recite a method and system that includes two or more suggested products or services that may recur according to different recurrence patterns.

For at least these reasons, independent claims 1 and 51 are not obvious under Cockrill  
10 or Slotznick. Accordingly, Applicants request that the Examiner withdraw this rejection of independent claims 1 and 51.

Dependent Claims 2-41 and 52-91 were also rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Cockrill. Dependent claims 2-51 and 52-91 should be allowed for the reasons set out above for claims 1 and 51 from which they depend. Applicants  
15 therefore request that the Examiner withdraw this rejection of these claims.

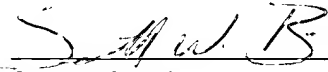


**CONCLUSION**

Applicants respectfully submit that all of the pending claims are in condition for allowance and seek early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully invited to contact the attorney of record, James L. Katz, at (312) 321-7739.

Respectfully submitted,

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